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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-344

13 **JOANN BARRETT HOLT**
16173 Fairview Avenue
Fontana, CA 92335

A C C U S A T I O N

14 Registered Nurse License No. 313509

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 31, 1980, the Board of Registered Nursing issued Registered
23 Nurse License No. 313509 to Joann Barrett Holt (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and expired on
25 January 31, 2012, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. "

5. Section 492 states, in pertinent part:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest. This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

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1 6. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
2 including a licensee holding a temporary or an inactive license, for any reason provided in Article
3 3 (commencing with section 2750) of the Nursing Practice Act.

4 7. Section 2761 states, in pertinent part:

5 "The board may take disciplinary action against a certified or licensed nurse or deny an
6 application for a certificate or license for any of the following:

7 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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9 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
10 functions, and duties of a registered nurse, in which event the record of the conviction shall be
11 conclusive evidence thereof."

12 8. Section 2762 states, in pertinent part:

13 "In addition to other acts constituting unprofessional conduct within the meaning of this
14 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
15 chapter to do any of the following:

16 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
17 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
18 administer to another, any controlled substance as defined in Division 10 (commencing with
19 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
20 defined in Section 4022.

21 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
22 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
23 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
24 himself or herself, any other person, or the public or to the extent that such use impairs his or her
25 ability to conduct with safety to the public the practice authorized by his or her license.

26 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
27 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
28 or the possession of, or falsification of a record pertaining to, the substances described in

subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

9. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1444 states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

11. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

CONTROLLED SUBSTANCE

12. "Cocaine," is a Schedule II controlled substance as designated by Health and Safety Code Section 11055, subdivision (b)(6) and is categorized as dangerous drug pursuant to section 4022.

13. "Xanax," is the brand name for Alprazolam, an anti-anxiety benzodiazepin. It is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(1) and is categorized as a dangerous drug pursuant to section 4022.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 14. Respondent is subject to disciplinary action under section 2761, subdivision (f) and
4 490, in conjunction with California Code of Regulations, title 16, section 1444, in that on or
5 around September 13, 2011, Respondent was convicted of one misdemeanor count of violating
6 Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of
7 alcohol in her blood] in a criminal proceeding entitled *The People of the State of California v.*
8 *Joann B. Holt* (Case No. TVA1100719). The circumstances underlying the conviction are that on
9 or about April 19, 2011, Respondent was involved in a single vehicle traffic collision. Following
10 a field sobriety test conducted by Rialto police officers, during which Respondent admitted to
11 consuming 8-12 ounces of wine prior to driving and having taken Xanax earlier that evening, she
12 was determined to be impaired and arrested. During the booking procedure, Respondent
13 submitted to a blood test that revealed a blood-alcohol content level of 0.14% as well as the
14 presence of Cocaine and Xanax in her system. As a result of the conviction, Respondent was
15 required to serve 2 days in San Bernardino County Jail and released subject to certain terms and
16 conditions.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Dangerous Use Controlled Substance and/or Alcohol Beverages)**

19 15. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
20 defined in section 2762, subdivision (b), in that on or about April 19, 2011, Respondent used
21 controlled substances and/or alcoholic beverages to an extent or in a manner dangerous or
22 injurious to herself, another person, or the public, as follows: Complainant refers to, and by this
23 reference incorporates, the allegations set forth above in paragraph 14, as though set forth fully.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Conviction of a Crime Involving the Consumption of Alcohol)**

26 16. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
27 defined in section 2762, subdivision (c), in that on or about, September 13, 2011 Respondent was
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1 convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this
2 reference incorporates, the allegations set forth above in paragraph 14, as though set forth fully.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Possession of a Controlled Substance)**

5 17. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
6 defined in section 2762, subdivision (a), in that Respondent was found to be in possession of a
7 controlled substance. The circumstances are that on or about October 18, 2007, during a traffic
8 stop by the San Bernardino Sheriff's Department, Respondent was observed throwing two small
9 tannish colored objects to the ground. When questioned by deputies, Respondent admitted they
10 belonged to her and that the substance was rock cocaine. Respondent was subsequently arrested
11 for violating Health and Safety Code section 11350, subdivision (a) [possession of a controlled
12 substance]. During the booking procedure, Respondent admitted to smoking cocaine three days
13 prior to the arrest.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Use of a Controlled Substance)**

16 18. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
17 defined in section 2762, subdivision (b), in that on or about October 18, 2007 and April 19, 2011,
18 Respondent used and/or was under the influence of a controlled substance. Complainant refers
19 to, and by this reference incorporates, the allegations set forth above in paragraph 14 and 17,
20 inclusive, as though set forth fully.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board issue a decision:

24 1. Revoking or suspending Registered Nurse License No. 313509, issued to Joann
25 Barrett Holt;

26 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
27 enforcement of this case, pursuant to section 125.3; and

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for Stacie Ben
LOUISE R. BAILEY, M
Executive Officer

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